

## SUBCHAPTER D—STATE CHILDREN'S HEALTH INSURANCE PROGRAMS (SCHIPs)

### PART 457—ALLOTMENTS AND GRANTS TO STATES

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#### Subpart A [Reserved]

#### Subpart B—General Administration—Reviews and Audits; Withholding for Failure to Comply; Deferral and Disallowance of Claims; Reduction of Federal Medical Payments

##### § 457.200 Program reviews.

(a) *Review of State and local administration of the SCHIP plan.* In order to determine whether the State is complying with the Federal requirements and the provisions of its plan, HCFA reviews State and local administration of the SCHIP plan through analysis of the State's policies and procedures, on-site reviews of selected aspects of agency operation, and examination of samples of individual case records.

(b) *Action on review findings.* If Federal or State reviews reveal serious problems with respect to compliance with any Federal or State plan requirement, the State must correct its practice accordingly.

##### § 457.202 Audits.

(a) *Purpose.* The Department's Office of Inspector General (OIG) periodically audits State operations in order to determine whether —

(1) The program is being operated in a cost-efficient manner; and

(2) Funds are being properly expended for the purposes for which they were appropriated under Federal and State law and regulations.

(b) *Reports.* (1) The OIG releases audit reports simultaneously to State officials and the Department's program officials.

(2) The reports set forth OIG opinion and recommendations regarding the practices it reviewed, and the allowability of the costs it audited.

(3) Cognizant officials of the Department make final determinations on all audit findings.

(c) *Action on audit exceptions.* (1) *Concurrence or clearance.* The State agency has the opportunity of concurring in the exceptions or submitting additional facts that support clearance of the exceptions.

(2) *Appeal.* Any exceptions that are not disposed of under paragraph (c)(1) of this section are included in a disallowance letter that constitutes the Department's final decision unless the State requests reconsideration by the Appeals Board. (Specific rules are set forth in § 457.212.)

(3) *Adjustment.* If the decision by the Board requires an adjustment of FFP, either upward or downward, a subsequent grant award promptly reflects the amount of increase or decrease.

**§ 457.204 Withholding of payment for failure to comply with Federal requirements.**

(a) *Basis for withholding.* HCFA withholds payments to the State, in whole or in part, only if, after giving the State notice, a reasonable opportunity for correction, and an opportunity for a hearing, the Administrator finds—

(1) That the plan is in substantial noncompliance with the requirements of title XXI of the Act; or

(2) That the State is conducting its program in substantial noncompliance with either the State plan or the requirements of title XXI of the Act. (Hearings are generally not called until a reasonable effort has been made to resolve the issues through conferences and discussions. These efforts may be continued even if a date and place have been set for the hearing.)

(b) *Noncompliance of the plan.* A question of noncompliance of a State plan may arise from an unapprovable change in the approved State plan or the failure of the State to change its approved plan to conform to a new Fed-

eral requirement for approval of State plans.

(c) *Noncompliance in practice.* A question of noncompliance in practice may arise from the State's failure to actually comply with a Federal requirement, regardless of whether the plan itself complies with that requirement.

(d) *Notice, reasonable opportunity for correction, and implementation of withholding.* If the Administrator makes a finding of noncompliance under paragraph (a) of this section, the following steps apply:

(1) *Preliminary notice.* The Administrator provides a preliminary notice to the State—

(i) Of the findings of noncompliance;

(ii) The proposed enforcement actions to withhold payments; and

(iii) If enforcement action is proposed, that the State has a reasonable opportunity for correction, described in paragraph (d)(2) of this section, before the Administrator takes final action.

(2) *Opportunity for corrective action.* If enforcement actions are proposed, the State must submit evidence of corrective action related to the findings of noncompliance to the Administrator within 30 days from the date of the preliminary notification.

(3) *Final notice.* Taking into account any evidence submitted by the State under paragraph (d)(2) of this section, the Administrator makes a final determination related to the findings of noncompliance, and provides a final notice to the State—

(i) Of the final determination on the findings of noncompliance;

(ii) If enforcement action is appropriate—

(A) No further payments will be made to the State (or that payments will be made only for those portions or aspects of the programs that are not affected by the noncompliance); and

(B) The total or partial withholding will continue until the Administrator is satisfied that the State's plan and practice are, and will continue to be, in compliance with Federal requirements.

(4) *Hearing.* An opportunity for a hearing will be provided to the State prior to withholding under paragraph (d)(5) of this section.

(5) *Withholding.* HCFA withholds payments, in whole or in part, until

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the Administrator is satisfied regarding the State's compliance.

### § 457.206 Administrative appeals under SCHIP.

Three distinct types of determinations are subject to Departmental reconsideration upon request by a State.

(a) *Compliance with Federal requirements.* A determination that a State's plan or proposed plan amendments, or its practice under the plan do not meet (or continue to meet) Federal requirements are subject to the hearing provisions of 42 CFR part 430, subpart D of this chapter.

(b) *FFP in State SCHIP expenditures.* Disallowances of FFP in State SCHIP expenditures (mandatory grants) are subject to Departmental reconsideration by the Departmental Appeals Board (the Board) in accordance with procedures set forth in 45 CFR part 16.

(c) *Discretionary grants disputes.* Determinations listed in 45 CFR part 16, appendix A, pertaining to discretionary grants, such as grants for special demonstration projects under Section 1115 of the Act, that may be awarded to an SCHIP agency, are subject to reconsideration by the Departmental Grant Appeals Board.

### § 457.208 Judicial review.

(a) *Right to judicial review.* Any State dissatisfied with the Administrator's final determination on approvability of plan material or compliance with Federal requirements (§457.204) has a right to judicial review.

(b) *Petition for review.* (1) The State must file a petition for review with the U.S. Court of Appeals for the circuit in which the State is located, within 60 days after it is notified of the determination.

(2) After the clerk of the court files a copy of the petition with the Administrator, the Administrator files in the court the record of the proceedings on which the determination was based.

(c) *Court action.* (1) The court is bound by the Administrator's findings of fact, if they are supported by substantial evidence.

(2) The court has jurisdiction to affirm the Administrator's decision, to set it aside in whole or in part, or, for

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good cause, to remand the case for additional evidence.

(d) *Response to remand.* (1) If the court remands the case, the Administrator may make new or modified findings of fact and may modify his or her previous determination.

(2) The Administrator certifies to the court the transcript and record of the further proceedings.

(e) *Review by the Supreme Court.* The judgment of the appeals court is subject to review by the U.S. Supreme Court upon certiorari or certification, as provided in 28 U.S.C. 1254.

### § 457.210 Deferral of claims for FFP.

(a) *Requirements for deferral.* Payment of a claim or any portion of a claim for FFP is deferred only if—

(1) The Regional Administrator or the Administrator questions its allowability and needs additional information in order to resolve the question; and

(2) HCFA takes action to defer the claim (by excluding the claimed amount from the grant award) within 60 days after the receipt of a Quarterly Statement of Expenditures (prepared in accordance with HCFA instructions) that includes that claim.

(b) *Notice of deferral and State's responsibility.* (1) Within 15 days of the action described in paragraph (a)(2) of this section, the Regional Administrator sends the State a written notice of deferral that—

(i) Identifies the type and amount of the deferred claim and specifies the reason for deferral; and

(ii) Requests the State to make available all the documents and materials the HCFA regional office believes are necessary to determine the allowability of the claim.

(2) It is the responsibility of the State to establish the allowability of a deferred claim.

(c) *Handling of documents and materials.* (1) Within 60 days (or within 120 days if the State requests an extension) after receipt of the notice of deferral, the State must make available to the HCFA regional office, in readily reviewable form, all requested documents and materials except any that it identifies as not being available.

(2) HCFA regional office staff initiates review within 30 days after receipt of the documents and materials.

(3) If the Regional Administrator finds that the materials are not in readily reviewable form or that additional information is needed, he or she promptly notifies the State that it has 15 days to submit the readily reviewable or additional materials.

(4) If the State does not provide the necessary materials within 15 days, the Regional Administrator disallows the claim.

(5) The Regional Administrator has 90 days, after all documentation is available in readily reviewable form, to determine the allowability of the claim.

(6) If the Regional Administrator cannot complete review of the material within 90 days, HCFA pays the claim, subject to a later determination of allowability.

(d) *Effect of decision to pay a deferred claim.* Payment of a deferred claim under paragraph (c)(6) of this section does not preclude a subsequent disallowance based on the results of an audit or financial review. (If there is a subsequent disallowance, the State may request reconsideration as provided in paragraph (e)(2) of this section.)

(e) *Notice and effect of decision on allowability.* (1) The Regional Administrator or the Administrator gives the State written notice of his or her decision to pay or disallow a deferred claim.

(2) If the decision is to disallow, the notice informs the State of its right to reconsideration in accordance with 45 CFR part 16.

#### **§ 457.212 Disallowance of claims for FFP.**

(a) *Notice of disallowance and of right to reconsideration.* When the Regional Administrator or the Administrator determines that a claim or portion of claim is not allowable, he or she promptly sends the State a disallowance letter that includes the following, as appropriate:

(1) The date or dates on which the State's claim for FFP was made.

(2) The time period during which the expenditures in question were made or claimed to have been made.

(3) The date and amount of any payment or notice of deferral.

(4) A statement of the amount of FFP claimed, allowed, and disallowed and the manner in which these amounts were computed.

(5) Findings of fact on which the disallowance determination is based or a reference to other documents previously furnished to the State or included with the notice (such as a report of a financial review or audit) that contain the findings of fact on which the disallowance determination is based.

(6) Pertinent citations to the law, regulations, guides and instructions supporting the action taken.

(7) A request that the State make appropriate adjustment in a subsequent expenditure report.

(8) Notice of the State's right to request reconsideration of the disallowance and the time allowed to make the request.

(9) A statement indicating that the disallowance letter is the Department's final decision unless the State requests reconsideration under paragraph (b)(2) of this section.

(b) *Reconsideration of FFP disallowance.* (1) The Departmental Appeals Board reviews disallowances of FFP under title XXI.

(2) A State may request reconsideration with a request to the Chair, Departmental Appeals Board, within 30 days after receipt of the disallowance letter, which must include—

(i) A copy of the disallowance letter;

(ii) A statement of the amount in dispute; and

(iii) A brief statement of why the disallowance is wrong.

(c) *Reconsideration procedures.* The reconsideration procedures are those set forth in 45 CFR part 16.

(d) *Implementation of decisions.* If the reconsideration decision requires an adjustment of FFP, either upward or downward, a subsequent grant award promptly reflects the amount of increase or decrease.

**§ 457.216 Treatment of uncashed or canceled (voided) SCHIP checks.**

(a) *Purpose.* This section provides rules to ensure that States refund the Federal portion of uncashed or canceled (voided) checks under title XXI.

(b) *Definitions.* As used in this section—

*Canceled (voided) check* means an SCHIP check issued by a State or fiscal agent that prior to its being cashed is canceled (voided) by the State or fiscal agent, thus preventing disbursement of funds.

*Fiscal agent* means an entity that processes or pays vendor claims for the SCHIP agency.

*Uncashed check* means an SCHIP check issued by a State or fiscal agent that has not been cashed by the payee.

*Warrant* means an order by which the SCHIP agency or local agency without the authority to issue checks recognizes a claim. Presentation of a warrant by the payee to a State officer with authority to issue checks will result in release of funds due.

(c) *Refund of Federal financial participation (FFP) for uncashed checks—*(1) *General provisions.* If a check remains uncashed beyond a period of 180 days from the date it was issued; that is, the date of the check, it is no longer regarded as an allowable program expenditure. If the State has claimed and received FFP for the amount of the uncashed check, it must refund the amount of FFP received.

(2) *Report of refund.* At the end of each calendar quarter, the State agency must identify those checks that remain uncashed beyond a period of 180 days after issuance. The SCHIP agency must refund all FFP that it received for uncashed checks by adjusting the Quarterly Statement of Expenditures for that quarter. If an uncashed check is cashed after the refund is made, the State may file a claim. The claim will be considered to be an adjustment to the costs for the quarter in which the check was originally claimed. This claim will be paid if otherwise allowed by the Act and the regulations issued in accordance with the Act.

(3) If the State does not refund the appropriate amount as specified in paragraph (c)(2) of this section, the amount will be disallowed.

(d) *Refund of FFP for canceled (voided) checks—*(1) *General provisions.* If the State has claimed and received FFP for the amount of a canceled (voided) check, it must refund the amount of FFP received.

(2) *Report of refund.* At the end of each calendar quarter, the SCHIP agency must identify those checks that were canceled (voided). The State must refund all FFP that it received for canceled (voided) checks by adjusting the Quarterly Statement of Expenditures for that quarter.

(3) If the State does not refund the appropriate amount as specified in paragraph (d)(2) of this section, the amount will be disallowed.

**§ 457.218 Repayment of Federal funds by installments.**

(a) *Basic conditions.* When Federal payments have been made for claims that are later found to be unallowable, the State may repay the Federal Funds by installments if the following conditions are met:

(1) The amount to be repaid exceeds 2½ percent of the estimated or actual annual State share for the State SCHIP program; and

(2) The State has given the Regional Administrator written notice, before total repayment was due, of its intent to repay by installments.

(b) *Annual State share determination.* HCFA determines whether the amount to be repaid exceeds 2½ percent of the annual State share as follows:

(1) If the State SCHIP program is ongoing, HCFA uses the annual estimated State share of State SCHIP expenditures. This is the sum of the estimated State shares for four consecutive quarters, beginning with the quarter in which the first installment is to be paid, as shown on the State's latest HCFA-21B form.

(2) If the State SCHIP program has been terminated by Federal law or by the State, HCFA uses the actual State share. The actual State share is that shown on the State's Quarterly Statement of Expenditures reports for the last four quarters before the program was terminated.

(c) *Repayment amounts, schedules, and procedures—*(1) *Repayment amount.* The repayment amount may not include

any amount previously approved for installment repayment.

(2) *Repayment schedule.* The number of quarters allowed for repayment is determined on the basis of the ratio of the repayment amount to the annual State share of State SCHIP expenditures. The higher the ratio of the total repayment amount is to the annual State share, the greater the number of quarters allowed, as follows:

Total repayment amount as percentage of State share of annual expenditures for State SCHIP	Number of quarters to make repayment
2.5 pct. or less .....	1
Greater than 2.5, but not greater than 5 .....	2
Greater than 5, but not greater than 7.5 .....	3
Greater than 7.5, but not greater than 10 .....	4
Greater than 10, but not greater than 15 .....	5
Greater than 15, but not greater than 20 .....	6
Greater than 20, but not greater than 25 .....	7
Greater than 25, but not greater than 30 .....	8
Greater than 30, but not greater than 47.5 ...	9
Greater than 47.5, but not greater than 65 ...	10
Greater than 65, but not greater than 82.5 ...	11
Greater than 82.5, but not greater than 100 ..	12

(3) *Quarterly repayment amounts.* The quarterly repayment amounts for each of the quarters in the repayment schedule may not be less than the following percentages of the estimated State share of the annual expenditures for SCHIP:

For each of the following quarters	Repayment installment may not be less than these percentages
1 to 4 .....	2.5
5 to 8 .....	5.0
9 to 12 .....	17.5

(4) *Extended schedule.* The repayment schedule may be extended beyond 12 quarterly installments if the total repayment amount exceeds 100 percent of the estimated State share of annual expenditures. In these circumstances, the repayment schedule in paragraph (c)(2) of this section is followed for repayment of the amount equal to 100 percent of the annual State share. The remaining amount of the repayment is in quarterly amounts equal to not less than 17.5 percent of the estimated State share of annual expenditures.

(5) *Repayment process.* Repayment is accomplished through adjustment in the quarterly grants over the period covered by the repayment schedule. If the State chooses to repay amounts

representing higher percentages during the early quarters, any corresponding reduction in required minimum percentages is applied first to the last scheduled payment, then to the next to the last payment, and so forth as necessary.

(6) *Offsetting of retroactive claims.* (i) The amount of a retroactive claim to be paid a State is offset against any amounts to be, or already being, repaid by the State in installments. Under this provision, the State may choose to:

(A) Suspend payments until the retroactive claim due the State has, in fact, been offset; or

(B) Continue payments until the reduced amount of its debt (remaining after the offset), has been paid in full. This second option would result in a shorter payment period.

(ii) A retroactive claim for the purpose of this regulation is a claim applicable to any period ending 12 months or more before the beginning of the quarter in which HCFA would pay that claim.

[65 FR 33622, May 24, 2000; 65 FR 38027, June 19, 2000; 65 FR 52042, Aug. 28, 2000]

#### § 457.220 Public funds as the State share of financial participation.

(a) Public funds may be considered as the State's share in claiming FFP if they meet the conditions specified in paragraphs (b) and (c) of this section.

(b) The public funds are appropriated directly to the State or local SCHIP agency, or transferred from other public agencies (including Indian tribes) to the State or local agency and under its administrative control, or certified by the contributing public agency as representing expenditures eligible for FFP under this section.

(c) The public funds are not Federal funds, or are Federal funds authorized by the Federal law to be used to match other Federal funds.

#### § 457.222 FFP for equipment.

Claims for Federal financial participation in the cost of equipment under SCHIP are determined in accordance with subpart G of 45 CFR part 95. Requirements concerning the management and disposition of equipment

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under SCHIP are also prescribed in subpart G of 45 CFR part 95.

#### **§ 457.224 FFP: Conditions relating to cost sharing.**

(a) No FFP is available for the following amounts, even when related to services or benefit coverage which is or could be provided under a State SCHIP program—

(1) Any cost sharing amounts that beneficiaries should have paid as enrollment fees, premiums, deductibles, coinsurance, copayments, or similar charges.

(2) Any amounts paid by the agency for health benefits coverage or services furnished to individuals who would not be eligible for that coverage or those services under the approved State child health plan, whether or not the individual paid any required premium or enrollment fee.

(b) The amount of expenditures under the State child health plan must be reduced by the amount of any premiums and other cost-sharing received by the State.

#### **§ 457.226 Fiscal policies and accountability.**

A State plan must provide that the SCHIP agency and, where applicable, local agencies administering the plan will—

(a) Maintain an accounting system and supporting fiscal records to assure that claims for Federal funds are in accord with applicable Federal requirements;

(b) Retain records for 3 years from date of submission of a final expenditure report;

(c) Retain records beyond the 3-year period if audit findings have not been resolved; and

(d) Retain records for nonexpendable property acquired under a Federal grant for 3 years from the date of final disposition of that property.

#### **§ 457.228 Cost allocation.**

A State plan must provide that the single or appropriate SCHIP Agency will have an approved cost allocation plan on file with the Department in accordance with the requirements contained in subpart E of 45 CFR part 95. Subpart E also sets forth the effect on

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FFP if the requirements contained in that subpart are not met.

#### **§ 457.230 FFP for State ADP expenditures.**

FFP is available for State ADP expenditures for the design, development, or installation of mechanized claims processing and information retrieval systems and for the operation of certain systems. Additional HHS regulations and HCFA procedures regarding the availability of FFP for ADP expenditures are in 45 CFR part 74, 45 CFR part 95, subpart F, and part 11, State Medicaid Manual.

#### **§ 457.232 Refunding of Federal Share of SCHIP overpayments to providers and referral of allegations of waste, fraud or abuse to the Office of Inspector General.**

(a) Quarterly Federal payments to the States under title XXI (SCHIP) of the Act are to be reduced or increased to make adjustment for prior overpayments or underpayments that the Secretary determines have been made.

(b) The Secretary will consider the pro rata Federal share of the net amount recovered by a State during any quarter to be an overpayment.

(c) Allegations or indications of waste fraud and abuse with respect to the SCHIP program shall be referred promptly to the Office of Inspector General.

#### **§ 457.234 State plan requirements.**

The State plan is a comprehensive written statement submitted by the agency describing the nature and scope of its State Children's Health Insurance Program and giving assurance that it will be administered in conformity with the specific requirements of title XXI, the applicable regulations in chapter IV, and other applicable official issuance of the Department. The State plan contains all information necessary for HCFA to determine whether the plan can be approved to serve as a basis for FFP in the State plan program.

#### **§ 457.236 Audits.**

The SCHIP agency must assure appropriate audit of records on costs of provider services.

**§ 457.238 Documentation of payment rates.**

The SCHIP agency must maintain documentation of payment rates and make it available to HHS upon request.

**Subparts C through E [Reserved]****Subpart F—Payments to States****§ 457.600 Purpose and basis of this subpart.**

This subpart interprets and implements—

(a) Section 2104 of the Act which specifies the total allotment amount available for allotment to each State for child health assistance for fiscal years 1998 through 2007, the formula for determining each State allotment for a fiscal year, including the Commonwealth and Territories, and the amounts of payments for expenditures that are applied to reduce the State allotments.

(b) Section 2105 of the Act which specifies the provisions for making payment to States, the limitations and conditions on such payments, and the calculation of the enhanced Federal medical assistance percentage.

**§ 457.602 Applicability.**

The provisions of this subpart apply to the 50 States and the District of Columbia, and the Commonwealths and Territories.

**§ 457.606 Conditions for State allotments and Federal payments for a fiscal year.**

(a) *Basic conditions.* In order to receive a State allotment for a fiscal year, a State must have a State child health plan submitted in accordance with section 2106 of the Act, and

(1) For fiscal years 1998 and 1999, the State child health plan must be approved before October 1, 1999;

(2) For fiscal years after 1999, the State child health plan must be approved by the end of the fiscal year;

(3) An allotment for a fiscal year is not available to a State prior to the beginning of the fiscal year; and

(4) Federal payments out of an allotment are based on State expenditures

which are allowable under the approved State child health plan.

(b) Federal payments for States' Children's Health Insurance Program (SCHIP) expenditures under an approved State child health plan are —

(1) Limited to the amount of available funds remaining in State allotments calculated in accordance with the allotment process and formula specified in §§ 457.608 and 457.610, and payment process in §§ 457.614 and 457.616.

(2) Available based on a percentage of State SCHIP expenditures, at a rate equal to the enhanced Federal medical assistance percentage (FMAP) for each fiscal year, calculated in accordance with § 457.622.

(3) Available through the grants process specified in § 457.630.

**§ 457.608 Process and calculation of State allotments for a fiscal year.**

(a) *General*—(1) State allotments for a fiscal year are determined by HCFA for each State and the District of Columbia with an approved State child health plan, as described in paragraph (e) of this section, and for each Commonwealth and Territory, as described in paragraph (f) of this section.

(2) In order to determine each State allotment, HCFA determines the national total allotment amount for each fiscal year available to the 50 States and the District of Columbia, as described in paragraph (c) of this section, and the total allotment amount available for each fiscal year for allotment to the Commonwealths and Territories, as described in paragraph (d) of this section.

(3) The amount of allotments redistributed under section 2104(f) of the Act will not be applied or taken into account in determining the amounts of a fiscal year allotment for a State and the District of Columbia under this section.

(b) *Definition of Proportion.* As used in this section, *proportion* means the amount of the allotment for a State or the District of Columbia for a fiscal year, divided by the national total allotment amount available for allotment to all States and the District of Columbia, as specified in paragraph (c) of this section, for that fiscal year.



(c) *National total allotment amount for the 50 States and the District of Columbia.*

(1) The national total allotment amount available for allotment to the 50 States and the District of Columbia is determined by subtracting the following amounts in the following order from the total appropriation specified in section 2104(a) of the Act for the fiscal year —

(i) The total allotment amount available for allotment for each fiscal year to the Commonwealths and Territories, as determined in paragraph (d)(1) of this section;

(ii) The total amount of the grant for the fiscal year for children with Type I Diabetes under Section 4921 of Public Law 105–33. This is \$30,000,000 for each of the fiscal years 1998 through 2002; and

(iii) The total amount of the grant for the fiscal year for diabetes programs for Indians under Section 4922 of Public Law 105–33. This is \$30,000,000 for each of the fiscal years 1998 through 2002.

(2) The following formula illustrates the calculation of the national total allotment amount available for allotment to the 50 States and the District of Columbia for a fiscal year:

$$A_{TA} = S_{2104(a)} - T_{2104(c)} - D_{4921} - D_{4922}$$

$A_{TA}$  = National total allotment amount available for allotment to the 50 States and the District of Columbia for the fiscal year.

$S_{2104(a)}$  = Total appropriation for the fiscal year indicated in Section 2104(a) of the Act.

$T_{2104(c)}$  = Total allotment amount for a fiscal year available for allotment to the Commonwealths and Territories; as determined under paragraph (d)(1) of this section.

$D_{4921}$  = Amount of total grant for children with Type I Diabetes under Section 4921 of Public Law 105–33. This is \$30,000,000 for each of the fiscal years 1998 through 2002.

(d) *Total allotment amount available to the Commonwealths and Territories.* (1) *General.* The total allotment amount available to all the Commonwealths and Territories for a fiscal year is equal to .25 percent of the total appropriation for the fiscal year indicated in section 2104(a) of the Act, plus the additional amount for the fiscal year

specified in paragraph (d)(2) of this section.

(2) *Additional amounts for allotment to the Commonwealths and Territories.* The following amounts are available for allotment to the Commonwealths and Territories for the indicated fiscal years in addition to the amount specified in paragraph (d)(1) of this section: For FY 1999, \$32 million; for each of FY 2000 and FY 2001, \$34.2 million; for each fiscal year FY 2002 through 2004, \$25.2 million; for each fiscal year FY 2005 and FY 2006, \$32.4 million; and for FY 2007, \$40 million. The additional amount for allotment for FY 1999 for the Commonwealths and Territories was provided under Public Law 105–277. The additional amounts for allotment for FY 2000 through FY 2007 were provided for the Commonwealths and Territories under section 702 of Public Law 106–113.

(e) *Determination of State allotments for a fiscal year.* (1) *General.* The allotment for a State and the District of Columbia for a fiscal year is the product of:

(i) The proportion for the State or the District of Columbia for the fiscal year, as defined in paragraph (b) of this section, and determined after application of the provisions of paragraphs (e)(2) and (3), related to the preadjusted proportion, and the floors, ceilings, and reconciliation process, respectively; and

(ii)(A) The national total allotment amount available for allotment for the fiscal year, as specified in paragraph (c) of this section. The State and the District of Columbia's allotment for a fiscal year is determined in accordance with the following general formula:

$$SA_i = P_i \times A_{TA}$$

$SA_i$  = Allotment for a State or District of Columbia for a fiscal year.

$P_i$  = Proportion for a State or District of Columbia for a fiscal year.

$A_{TA}$  = Total amount available for allotment to the 50 States and the District of Columbia for the fiscal year.

(B) There are two steps for determining the proportion for a State and the District of Columbia. The first step determines the preadjusted proportions, and is described under paragraph

(e)(2) of this section. The first step applies in determining the proportion for all fiscal years. The second step applies floors and ceilings and, if necessary, applies a reconciliation to the preadjusted proportion. The second step is described in paragraph (e)(3) of this section. The second step applies in determining the proportion only for FY 2000 and subsequent fiscal years. For FY 1998 and FY 1999, the preadjusted proportion is the State or District of Columbia's proportion for the fiscal year.

(2) *Determination of the Preadjusted Proportions for a Fiscal Year.* (i) The methodology for determining the State preadjusted proportion, referring to the determination of the proportion before the application of floors and ceilings and reconciliation for a fiscal year is in accordance with the following formula:

$$PP_i = (C_i \times SCF_i) / \Sigma(C_i \times SCF_i)$$

$PP_i$  = Preadjusted proportion for a State or District of Columbia for a fiscal year.

$C_i$  = Number of children in a State (section 2104(b)(1)(A)(I) of the Act) for a fiscal year. This number is based on the number of low-income children for a State for a fiscal year and the number of low-income children for a State for a fiscal year with no health insurance coverage for the fiscal year determined on the basis of the arithmetic average of the number of such children as reported and defined in the 3 most recent March supplements to the Current Population Survey (CPS) of the Bureau of the Census, and for FY 2000 and subsequent fiscal years, officially available before the beginning of the calendar year in which the fiscal year begins. For FY 1998 and FY 1999, the availability of the CPS data obtained from the Bureau of the Census is as specified in paragraphs (e)(4) and (5) of this section, respectively. (section 2104(b)(2)(B) of the Act).

(ii) For each of the fiscal years 1998 and 1999, the number of children is equal to the number of low-income children in the State for the fiscal year with no health insurance coverage. For fiscal year 2000, the number of children is equal to the sum of 75 percent of the number of low-income children in the

State for the fiscal year with no health insurance coverage and 25 percent of the number of low-income children in the State for the fiscal year. For fiscal years 2001 and thereafter, the number of children is equal to the sum of 50 percent of the number of low-income children in the State for the fiscal year with no health insurance coverage and 50 percent of the number of low-income children in the State for the fiscal year. (section 2104(b)(2)(A) of the Act).

$SCF_i$  = State cost factor for a State (section 2104(b)(1)(A)(ii) of the Act). For a fiscal year, this is equal to:  $.15 + .85 \times (W_i/W_N)$  (section 2104(b)(3)(A) of the Act).

$W_i$  = The annual average wages per employee for a State for such year (section 2104(b)(3)(A)(ii)(I) of the Act).

$W_N$  = The annual average wages per employee for the 50 States and the District of Columbia (section 2104(b)(3)(A)(ii)(II) of the Act). The annual average wages per employee for a State or for all States and the District of Columbia for a fiscal year is equal to the average of such wages for employees in the health services industry (SIC 80), as reported by the Bureau of Labor Statistics of the Department of Labor for each of the most recent 3 years, and for FY 2000 and subsequent fiscal years, finally available before the beginning of the calendar year in which the fiscal year begins. For FY 1998 and FY 1999, the availability of the wage data obtained from the Bureau of Labor Statistics is as specified in paragraphs (e)(4) and (5), respectively. (section 2104(b)(3)(B) of the Act).

$\Sigma(C_i \times SCF_i)$  = The sum of the products of  $(C_i \times SCF_i)$  for each State (section 2104(b)(1)(B) of the Act).

$A_{TA}$  = Total amount available for allotment to the 50 States and the District of Columbia for the fiscal year as determined under paragraph (c) of this section.

(3) *Application of floors and ceilings and reconciliation in determining proportion.* (i) *Floors and ceilings in proportions.* The preadjusted State proportions for a fiscal year are subject to the application of floors and ceilings in

paragraphs (e)(3)(i)(A) and (B) of this section..

(A) The proportion floors, or minimum proportions, that apply in determining a State's proportion for the fiscal year are:

(1) \$2,000,000 divided by the total of the amount available nationally;

(2) 90 percent of the State's proportion for the previous fiscal year; and

(3) 70 percent of the State's proportion for FY 1999.

(B) The proportion ceiling, or maximum proportion, for a fiscal year that applies in determining the State's fiscal year proportion is 145 percent of the State's proportion for FY 1999.

(ii) *Reconciliation of State proportions.* If, after the application of the floors and ceilings in paragraph (e)(3)(i), the sum of the States' proportions is not equal to one, the Secretary will reconcile the States' proportions by applying either paragraph (e)(3)(i)(A) or (B) of this paragraph, as appropriate, such that the sum of the proportions after reconciliation equals one. If, after the application of the floors and ceilings in paragraph (e)(3)(i), the sum of the States' proportions is equal to one, no reconciliation is necessary, and the States' proportions will be the same as the preadjusted proportions determined under paragraph (e)(2) of this section.

(A) If, after the application of the floors and ceilings under paragraphs (e)(3)(i)(A) and (B) of this section, the sum of the States' proportions is greater than one, the Secretary will establish a maximum percentage increase in States' proportions, such that when applied to the States' proportions, the sum of the proportions is exactly equal to one.

(B) If, after the application of the floors and ceilings under paragraphs (e)(3)(i)(A) and (B), the sum of the proportions is less than one, the Secretary will increase States' proportions (as computed before the application of the floors under paragraph (e)(3)(i)(A)) in a pro rata manner (but not to exceed the 145 percent ceiling computed under paragraph (e)(3)(i)(B)), such that when applied to the States' proportions, the sum of the proportions is exactly equal to one.

(4) *Data used for calculating the FY 1998 SCHIP allotments.* The FY 1998

SCHIP allotments were calculated in accordance with the methodology described in paragraphs (e)(1) and (2) of this section, using the most recent official and final data that were available from the Bureau of the Census and the Bureau of Labor Statistics, respectively, prior to the September 1 before the beginning of FY 1998 (that is, through August 31, 1997). In particular, through August 31, 1997, the only official data available on the numbers of children were data from the 3 March CPSs conducted in March 1994, 1995, and 1996 that reflected data for the 3 calendar years 1993, 1994, and 1995.

(5) *Data used for calculating the FY 1999 SCHIP allotments.* In accordance with section 101(f) of Public Law 105-277, the FY 1999 allotments were calculated in accordance with the methodology described in paragraph (e)(2) of this section, using the same data as were used in calculating the FY 1998 SCHIP allotments.

(f) *Methodology for determining the Commonwealth and Territory allotments for a fiscal year.* The total amount available for the Commonwealths and Territories for each fiscal year, as determined under paragraph (d) of this section, is allotted to each Territory and Commonwealth below which has an approved State child health plan. These allotments are in the proportion that the following percentages for each Commonwealth Territory bear to the sum of such percentages, as specified in section 2104(c)(2) of the Act:

Puerto Rico—91.6%

Guam—3.5%

Virgin Islands—2.6%

American Samoa—1.2%

Northern Mariana Islands—1.1%

(g) *Reserved State allotments for a fiscal year.* (1) For FY 2000 and subsequent fiscal years, HCFA determines and publishes the State reserved allotments for a fiscal year for each State, the District of Columbia, and Commonwealths and Territories in the FEDERAL REGISTER based on the most recent official and final data available before the beginning of the calendar year in which the fiscal year begins for the number of children and the State cost factor.

(2) For FY 1998 and FY 1999, HCFA determined and published the State reserved allotments using the available

data described in paragraphs (e)(4) and (e)(5) of this section, respectively, on the basis of the statutory allotment formula as it existed prior to the enactment of Public Law 106-113.

(3) If all States, the District of Columbia, and the Commonwealths and Territories have approved State child health plans in place prior to the beginning of the fiscal year, as appropriate, HCFA may publish the allotments as final in the FEDERAL REGISTER, without the need for publication as reserved allotments.

(h) *Final allotments.* (1) Final State allotments for FY 1998 and FY 1999 for each State, the District of Columbia, and the Commonwealths and Territories are determined by HCFA based only on those States, the District of Columbia, and the Commonwealths and Territories that have approved State child health plans by the end of fiscal year 1999, in accordance with the formula and methodology specified in paragraphs (a) through (g) of this section.

(2) Final State allotments for a fiscal year after FY 1999 for each State, the District of Columbia, and the Commonwealths and Territories are determined by HCFA based only on those States, the District of Columbia, and the Commonwealths and Territories that have approved State child health plans by the end of the fiscal year, in accordance with the formula and methodology specified in paragraphs (a) through (g) of this section.

(3) HCFA determines and publishes the States' final fiscal year allotments in the FEDERAL REGISTER based on the same data, with respect to the number of children and State cost factor, as were used in determining the reserved allotments for the fiscal year.

**§ 457.610 Period of availability for State allotments for a fiscal year.**

The amount of a final allotment for a fiscal year, as determined under § 457.608(h) and reduced to reflect certain Medicaid expenditures in accordance with § 457.616, remains available until expended for Federal payments based on expenditures claimed during a 3-year period of availability, beginning with the fiscal year of the final allotment and ending with the end of the

second fiscal year following the fiscal year.

**§ 457.614 General payment process.**

(a) A State may make claims for Federal payment based on expenditures incurred by the State prior to or during the period of availability related to that fiscal year.

(b) In order to receive Federal financial participation (FFP) for a State's claims for payment for the State's expenditures, a State must —

(1) Submit budget estimates of quarterly funding requirements for Medicaid and the State Children's Health Insurance Programs; and

(2) Submit an expenditure report.

(c) Based on the State's quarterly budget estimates, HCFA —

(1) Issues an advance grant to a State as described in § 457.630;

(2) Tracks and applies Federal payments claimed quarterly by each State, the District of Columbia, and each Commonwealth and Territory to ensure that payments do not exceed the applicable allotments for the fiscal year; and

(3) Track and apply relevant State, District of Columbia, Commonwealth and Territory expenditures reported each quarter against the 10 percent limit on expenditures other than child health assistance for standard benefit package, on a fiscal year basis as specified in § 457.618.

**§ 457.616 Application and tracking of payments against the fiscal year allotments.**

(a) *Categories of payments applied to reduce the State allotments.* In accordance with the principles described in paragraph (c) of this section, the following categories of payments are applied to reduce the State allotments for a fiscal year:

(1) Payments made to the State for expenditures claimed during the fiscal year under its title XIX Medicaid program, to the extent the payments were made on the basis of the enhanced FMAP described in sections 1905(b) and 2105(b) of the Act for expenditures attributable to children described in section 1905(u)(2) of the Act.

(2) Payments made to the State for expenditures claimed during the fiscal

year under its title XIX Medicaid program, to the extent the payments were made on the basis of the enhanced FMAP described in sections 1905(b) and 2105(b) of the Act for expenditures attributable to children described in section 1905(u)(3) of the Act.

(3) Payments made to a State under section 1903(a) of the Act for expenditures claimed by the State during a fiscal year that are attributable to the provision of medical assistance to a child during a presumptive eligibility period under section 1920A of the Act.

(4) Payments made to a State under its title XXI State Children's Health Insurance Program with respect to section 2105(a) of the Act for expenditures claimed by the State during a fiscal year.

(b) *Application of principles.* HCFA applies the principles in paragraph (c) of this section to —

(1) Coordinate the application of the payments made to a State for the State's expenditures claimed under the Medicaid and State Children's Health Insurance programs against the State allotment for a fiscal year;

(2) Determine the order of these payments in that application; and

(3) Determine the application of payments against multiple State Child Health Insurance Program fiscal year allotments.

(c) *Principles for applying Federal payments against the allotment.* HCFA—

(1) Applies the payments attributable to Medicaid expenditures specified in paragraphs (a)(1) through (a)(3) of this section, against the State child health plan allotment for a fiscal year before State child health plan expenditures specified in paragraph (a)(4) of this section are applied.

(2) Applies the payments attributable to Medicaid and State child health plan expenditures specified in paragraph (a) of this section against the applicable allotments for a fiscal year based on the quarter in which the expenditures are claimed by the State.

(3) Applies payments against the State allotments for a fiscal year in a manner that is consistent for all States.

(4) Applies payments attributable to Medicaid expenditures specified in paragraphs (a)(1) through (a)(3) of this

section, in an order that maximizes Federal reimbursement for States. Expenditures for which the enhanced FMAP is available are applied before expenditures for which the regular FMAP is available.

(5) Applies payments for expenditures against State Child Health Insurance Program fiscal year allotments in the least administratively burdensome, and most effective and efficient manner; payments are applied on a quarterly basis as they are claimed by the State, and are applied to reduce the earliest fiscal year State allotments before the payments are applied to reduce later fiscal year allotments.

(6) Subject to paragraphs (c)(6)(i) and (ii) of this section, applies payments for expenditures for a fiscal year's allotment against a subsequent fiscal year's allotment; however, the subsequent fiscal year's allotment must be available at the time of application. For example, if the allotment for fiscal year 1998 has been fully expended, payments for expenditures claimed in fiscal year 1998 are carried over for application against the fiscal year 1999 allotment when it becomes available.

(i) In accordance with § 457.618, the amount of non-primary expenditures that are within the 10 percent limit for the fiscal year for which they are claimed may be applied against a fiscal year allotment or allotments available in a subsequent fiscal year.

(ii) In accordance with § 457.618, the amounts of non-primary expenditures that exceed the 10 percent limit for the fiscal year for which they are claimed may not be applied against a fiscal year allotment or allotments available in a subsequent fiscal year.

(7) Carries over unexpended amounts of a State's allotment for a fiscal year for use in subsequent fiscal years through the end of the 3-year period of availability. For example, if the amounts of the fiscal year 1998 allotment are not fully expended by the end of fiscal year 1998, these amounts are carried over to fiscal year 1999 and are available to provide FFP for expenditures claimed by the State for that fiscal year.

(d) *Amount of Federal payment for expenditures claimed.* The amount of the Federal payment for expenditures

claimed by a State, District of Columbia, or the Commonwealths and Territories is determined by the enhanced FMAP applicable to the fiscal year in which the State paid the expenditure. For example, Federal payment for an expenditure paid by a State in fiscal year 1998 that was carried over to fiscal year 1999 (in accordance with paragraph(c)(6) of this section), because the State exceeded its fiscal year 1998 allotment, is available at the fiscal year 1998 enhanced FMAP rate.

**§ 457.618 Ten percent limit on certain State Children's Health Insurance Program expenditures.**

(a) *Expenditures.* (1) *Primary expenditures* are expenditures under a State plan for child health assistance to targeted low-income children in the form of a standard benefit package, and Medicaid expenditures claimed during the fiscal year to the extent Federal payments made for these expenditures on the basis of the enhanced FMAP described in sections 1905(b) and 2105(b) of the Act that are used to calculate the 10 percent limit.

(2) *Non-primary expenditures* are other expenditures under a State plan. Subject to the 10 percent limit described in paragraph (c) of this section, a State may receive Federal funds at the enhanced FMAP for 4 categories of non-primary expenditures:

- (i) Administrative expenditures;
- (ii) Outreach;
- (iii) Health initiatives; and
- (iv) Certain other child health assistance.

(b) *Federal payment.* Federal payment will not be available based on a State's non-primary expenditures for a fiscal year which exceed the 10 percent limit of the total of expenditures under the plan, as specified in paragraph (c) of this section.

(c) *10 Percent Limit.* The 10 percent limit is —

- (1) Applied on an annual fiscal year basis;
- (2) Calculated based on the total computable expenditures claimed by the State on quarterly expenditure reports submitted for a fiscal year. Expenditures claimed on a quarterly report for a different fiscal year may not be used in the calculation; and

(3) Calculated using the following formula:

$$L_{10\%} = (a_1 + u_2 + u_3)/9;$$

$L_{10\%}$  = 10 Percent Limit for a fiscal year

$A_1$  = Total computable amount of expenditures for the fiscal year under section 2105(a)(1) of the Act for which Federal payments are available at the enhanced FMAP described in Section 2105(b) of the Act;

$U_2$  = Total computable expenditures for medical assistance for which Federal payments are made during the fiscal year based on the enhanced FMAP described in sections 1905(b) and 2105(b) of the Act for individuals described in section 1905(u)(2) of the Act; and

$U_3$  = Total computable expenditures for medical assistance for which Federal payments are made during the fiscal year based on the enhanced FMAP described in sections 1905(b) and 2105(b) of the Act for individuals described in section 1905(u)(3) of the Act.

(d) The expenditures under section 2105(a)(2) of the Act that are subject to the 10 percent limit are applied —

(1) On an annual fiscal year basis; and

(2) Against the 10 percent limit in the fiscal year for which the State submitted a quarterly expenditure report including the expenditures. Expenditures claimed on a quarterly report for one fiscal year may not be applied against the 10 percent limit for any other fiscal year.

(e)(1) The 10 percent limit for a fiscal year, as calculated under paragraph (c)(3) of this section, may be no greater than 10 percent of the total computable amount (determined under paragraph (e)(2) of this section) of the State allotment or allotments available in that fiscal year. Therefore, the 10 percent limit is the lower of the amount calculated under paragraph (c)(3) of this section, and 10 percent of the total computable amount of the State allotment available in that fiscal year.

(2) As used in paragraph (e)(1) of this section, the total computable amount of a State's allotment for a fiscal year is determined by dividing the State's allotment for the fiscal year by the

State's enhanced FMAP for the year. For example, if a State allotment for a fiscal year is \$65 million and the enhanced FMAP rate for the fiscal year is 65 percent, the total computable amount of the allotment for the fiscal year is \$100 million (\$65 million/.65). In this example, the 10 percent limit may be no greater than a total computable amount of \$10 million (10 percent of \$100 million).

**§ 457.622 Rate of FFP for State expenditures.**

(a) *Basis.* Sections 1905(b), 2105(a) and 2105(b) of the Act provides for payments to States from the States' allotments for a fiscal year, as determined under § 457.608, for part of the cost of expenditures for services and administration made under an approved State child health assistance plan. The rate of payment is generally the enhanced Federal medical assistance percentage described below.

(b) *Enhanced Federal medical assistance percentage (Enhanced FMAP)—Computations.* The enhanced FMAP is the lower of the following:

(1) 70 percent of the regular FMAP determined under section 1905(b) of the Act, plus 30 percentage points; or

(2) 85 percent.

(c) *Conditions for availability of enhanced FMAP based on a State's expenditures—*The enhanced FMAP is available for payments based on a State's expenditures claimed under the State's title XXI program from the State's fiscal year allotment only under the following conditions:

(1) The State has an approved title XXI State child health plan;

(2) The expenditures are allowable under the State's approved title XXI State child health plan;

(3) State allotment amounts are available in the fiscal year, that is, the State's allotment or allotments (as reduced in accordance with § 457.616) remain available for a fiscal year and have not been fully expended.

(4) Expenditures claimed against the 10 percent limit are within the State's 10 percent limit for the fiscal year.

(5) The State is in compliance with the maintenance of effort requirements of Section 2105(d)(1) of the Act.

(d) *Categories of expenditures for which enhanced FMAP are available.* Except as otherwise provided below, the enhanced FMAP is available with respect to the following States' expenditures:

(1) Child health assistance under the plan for targeted low-income children in the form of providing health benefits coverage that meets the requirements of section 2103 of the Act; and

(2) Subject to the 10 percent limit provisions under § 457.618(a)(2), the following expenditures:

(i) Payment for other child health assistance for targeted low-income children;

(ii) Expenditures for health services initiatives under the State child health assistance plan for improving the health of children (including targeted low-income children);

(iii) Expenditures for outreach activities; and

(iv) Other reasonable costs incurred by the State to administer the State child health assistance plan.

(e) *SCHIP administrative expenditures and SCHIP related title XIX administrative expenditures.* (1) *General rule.* Allowable title XXI administrative expenditures should support the operation of the State child health assistance plan. In general, FFP for administration under title XXI is not available for costs of activities related to the operation of other programs.

(2) *Exception.* FFP is available under title XXI, at the enhanced FFP rate, for Medicaid administrative expenditures attributable to the provision of medical assistance to children described in sections 1905(u)(2) and 1905(u)(3), and during the presumptive eligibility period described in section 1920A of the Act, to the extent that the State does not claim those costs under the Medicaid program.

(3) FFP is not available in expenditures for administrative activities for items or services included within the scope of another claimed expenditure.

(4) FFP is available in expenditures for activities defined in sections 2102(c)(1) and 2105(a)(2)(C) of the Act as outreach to families of children likely to be eligible for child health assistance under the plan or under other public or private health coverage programs to inform these families of the

availability of, and to assist them in enrolling their children in such a program.

(5) FFP is available in administrative expenditures for activities specified in sections 2102(c)(2) of the Act as coordination of the administration of the State Children's Health Insurance Program with other public and private health insurance programs. FFP would not be available for the costs of administering the other public and private health insurance programs. Coordination activities must be distinguished from other administrative activities common among different programs.

**§ 457.624 Limitations on certain payments for certain expenditures.**

(a) *Abortions.* (1) *General rule.* Payment is not made for any State expenditures to pay for abortions or to assist in the purchase, whole or in part, of health benefit coverage that includes coverage of abortion.

(2) *Exception.* Payment may be made for expenditures for health benefits coverage and services that include abortions that are necessary to save the life of the mother or if the pregnancy is the result of rape or incest.

(b) *Waiver for purchase of family coverage.* Payment may be made to a State with an approved State child health plan for the purchase of family coverage under a group plan or health insurance coverage that includes coverage of targeted low-income children only if the State establishes to the satisfaction of HCFA that —

(1) Purchase of this coverage is cost-effective relative to the amounts that the State would have paid to obtain comparable coverage only of the targeted low-income children involved; and

(2) This coverage will not be provided if it would otherwise substitute for health insurance coverage that would be provided to such children but for the purchase of family coverage.

**§ 457.626 Prevention of duplicate payments.**

(a) *General rule.* No payment shall be made to a State for expenditures for child health assistance under its State child health plan to the extent that:

(1) A non-governmental health insurer would have been obligated to pay for those services but for a provision of its insurance contract that has the effect of limiting or excluding those obligations based on the actual or potential eligibility of the individual for child health assistance under the State child health insurance plan.

(2) Payment has been made or can reasonably be expected to be made promptly under any other Federally operated or financed health insurance or benefits program, other than a program operated or financed by the Indian Health Service.

(b) *Definitions.* As used in paragraph (a) of this section —

*Non-governmental health insurer* includes any health insurance issuer, group health plan, or health maintenance organization, as those terms are defined in 45 CFR 144.103, which is not part of, or wholly owned by, a governmental entity.

*Prompt payment* can reasonably be expected when payment is required by applicable statute, or under an approved State plan.

*Programs operated or financed by the Indian Health Service* means health programs operated by the Indian Health Service, or Indian tribe or tribal organization pursuant to a contract, grant, cooperative agreement or compact with the Indian Health Service under the authority of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450, *et seq.*), or by an urban Indian organization in accordance with a grant or contract with the Indian Health Service under the authority of title V of the Indian Health Care Improvement Act (25 U.S.C. 1601, *et seq.*).

**§ 457.628 Other applicable Federal regulations.**

Other regulations applicable to SCHIP programs include the following:

(a) HHS regulations in 42 CFR Subpart B—433.51–433.74 sources of non-Federal share and Health Care-Related Taxes and Provider-Related Donations; these regulations apply to States' SCHIPs in the same manner as they apply to States' Medicaid programs.

(b) HHS Regulations in 45 CFR subtitle A:



Part 16—Procedures of the Departmental Appeals Board.

Part 74—Administration of Grants (except as specifically excepted).

Part 80—Nondiscrimination Under Programs Receiving Federal Assistance Through the Department of Health and Human Services: Effectuation of title VI of the Civil Rights Act of 1964.

Part 81—Practice and Procedure for Hearings Under 45 CFR part 80.

Part 84—Nondiscrimination on the Basis of Handicap in Programs and activities Receiving or Benefiting From Federal Financial Assistance.

Part 95—General Administration—grant programs (public assistance and medical assistance).

**§ 457.630 Grants procedures.**

(a) *General provisions.* Once HCFA has approved a State child health plan, HCFA makes quarterly grant awards to the State to cover the Federal share of expenditures for child health assistance, other child health assistance, special health initiatives, outreach and administration.

(1) For fiscal year 1998, a State must submit a budget request in an appropriate format for the 4 quarters of the fiscal year. HCFA bases the grant awards for the 4 quarters of fiscal year 1998 based on the State's budget requests for those quarters.

(2) For fiscal years after 1998, a State must submit a budget request in an appropriate format for the first 3 quarters of the fiscal year. HCFA bases the grant awards for the first 3 quarters of the fiscal year on the State's budget requests for those quarters.

(3) For fiscal years after 1998, a State must also submit a budget request for the fourth quarter of the fiscal year. The amount of this quarter's grant award is based on the difference between a State's final allotment for the fiscal year, and the total of the grants for the first 3 quarters that were already issued in order to ensure that the total of all grant awards for the fiscal year are equal to the State's final allotment for that fiscal year.

(4) The amount of the quarterly grant is determined on the basis of information submitted by the State (in quarterly estimate and quarterly ex-

penditure reports) and other pertinent information. This information must be submitted by the State through the Medicaid Budget and Expenditure System (MBES) for the Medicaid program, and through the Child Health Budget and Expenditure System (CBES) for the title XXI program.

(b) *Quarterly estimates.* The State Children's Health Insurance Program agency must submit Form HCFA-21B (State Children's Health Insurance Program Budget Report for State Children's Health Insurance Program State expenditures) to the HCFA central office (with a copy to the HCFA regional office) 45 days before the beginning of each quarter.

(c) *Expenditure reports.* (1) The State must submit Form HCFA-64 (Quarterly Medicaid Statement of Expenditures for the Medical Assistance Program) and Form HCFA-21 (Quarterly State Children's Health Insurance Program Statement of Expenditures for title XXI), to central office (with a copy to the regional office) not later than 30 days after the end of the quarter.

(2) This report is the State's accounting of actual recorded expenditures. This disposition of Federal funds may not be reported on the basis of estimates.

(d) *Additional required information.* A State must provide HCFA with the following information regarding the administration of the title XXI program:

(1) Name and address of the State Agency/organization administering the program;

(2) The employer identification number (EIN); and

(3) A State official contact name and telephone number.

(e) *Grant award.* (1) *Computation by HCFA.* Regional office staff analyzes the State's estimates and sends a recommendation to the central office. Central office staff considers the State's estimates, the regional office recommendations and any other relevant information, including any adjustments to be made under paragraph (e)(2) of this section, and computes the grant.

(2) *Content of award.* The grant award computation form shows the estimate

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of expenditures for the ensuing quarter, and the amounts by which that estimate is increased or decreased because of an increase or overestimate for prior quarters, or for any of the following reasons:

(i) Penalty reductions imposed by law.

(ii) Deferrals or disallowances.

(iii) Interest assessments.

(iv) Mandated adjustments such as those required by Section 1914 of the Act.

(3) *Effect of award.* The grant award authorizes the State to draw Federal funds as needed to pay the Federal share of disbursements.

(4) *Draw procedure.* The draw is through a commercial bank and the

Federal Reserve system against a continuing letter of credit certified to the Secretary of the Treasury in favor of the State payee. (The letter of credit payment system was established in accordance with Treasury Department regulations—Circular No.1075.)

(f) *General administrative requirements.* With the following exceptions, the provisions of 45 CFR part 74, that establish uniform administrative requirements and cost principles, apply to all grants made to States under this subpart:

(1) Subpart G—Matching and Cost Sharing; and

(2) Subpart I—Financial Report Requirement.